

shall be applied as a payment on account of the estimated income tax for such year or the installments thereof.

(6) Notwithstanding elections made under paragraph (b)(5) of this section for taxable years ending after December 20, 1972, the Commissioner, within the applicable period of limitations, may credit any overpayment of individual, fiduciary, or corporation income tax, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the taxpayer making the overpayment, and only the balance, if any, shall be treated in the manner so elected.

(c) The filing of a properly executed income tax return shall, in any case in which the taxpayer is not required to show his tax on such form (see section 6014 and the regulations thereunder), be treated as a claim for refund (or for claims filed before July 1, 1976, constitute an election by the taxpayer to have the return treated as a claim for refund), and such return shall constitute a claim for refund within the meaning of section 6402 and section 6511 for the amount of the overpayment shown by the computation of the tax made by the district director or the director of the regional service center on the basis of the return. For purposes of section 6511, such claim shall be considered as filed on the date on which such return is considered as filed, except that if the requirements of § 301.7502-1, relating to timely mailing treated as timely filing, are met the claim shall be considered to be filed on the date of the postmark stamped on the cover in which the return was mailed.

(d) In any case in which a taxpayer elects to have an overpayment refunded to him he may not thereafter change his election to have the overpayment applied as a payment on account of his estimated income tax.

(e) [Reserved] For further guidance, see § 301.6402-3T(e).

(f) *Effective/applicability date.* (1) References in paragraph (e) of this section to Form 8805 or other statements required under § 1.1446-3(d)(2) shall apply to partnership taxable years beginning after April 29, 2008.

(2) [Reserved] For further guidance, see § 301.6402-3T(f)(ii).

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7102, 36 FR 5498, Mar. 24, 1971; T.D. 7234, 37 FR 28163, Dec. 21, 1972; T.D. 7293, 38 FR 32804, Nov. 28, 1973; T.D. 7298, 38 FR 35234, Dec. 26, 1973; T.D. 7410, 41 FR 11020, Mar. 16, 1976; T.D. 7808, 47 FR 5714, Feb. 8, 1982; T.D. 8053, 50 FR 39662, Sept. 30, 1985; T.D. 8734, 62 FR 53495, Oct. 14, 1997; T.D. 9394, 73 FR 23086, Apr. 29, 2008; T.D. 9658, 79 FR 12809, Mar. 6, 2014]

**§ 301.6402-3T Special rules applicable to income tax (temporary).**

(a) through (d) [Reserved] For further guidance, see § 301.6402-3(a) through (d).

(e) In the case of a nonresident alien individual or foreign corporation, the appropriate income tax return on which the claim for refund or credit is made must contain the tax identification number of the taxpayer required pursuant to section 6109 and the entire amount of income of the taxpayer subject to tax, even if the tax liability for that income was fully satisfied at source through withholding under chapters 3 or 4 of the Internal Revenue Code (Code). Also, if the overpayment of tax resulted from the withholding of tax at source under chapters 3 or 4 of the Code, a copy of the Form 1042-S, "Foreign Person's U.S. Source Income subject to Withholding," Form 8805, "Foreign Partner's Information Statement of Section 1446 Withholding Tax," or other statement (required under § 1.1446-3(d)(2) of this chapter) required to be provided to the beneficial owner or partner pursuant to § 1.1461-1(c)(1)(i), § 1.1474-1(d)(1)(i), or § 1.1446-3(d) of this chapter must be attached to the return. For purposes of claiming a refund, the Form 8805 or other statement must include the taxpayer identification number of the beneficial owner or partner even if not otherwise required. No claim for refund or credit under chapter 65 of the Code may be made by the taxpayer for any amount that the payor has repaid to the taxpayer pursuant to reimbursement or set-off procedures (described in § 1.1461-2(a)(2),(3) or § 1.1474-2(a)(3), (4) of this chapter). In addition, no claim for refund or credit may be made by a taxpayer for any amount that has been repaid to a qualified intermediary (as described in § 1.1441-1(e)(5)(ii)) or a participating FFI (as described in § 1.1471-1(b)(91))

pursuant to a collective refund filed by such entity on behalf of the taxpayer. See § 1.1441-1(e)(5)(iii) (describing a qualified intermediary agreement) and § 1.1471-4(h) (describing a collective refund). Upon request, a taxpayer must also submit such documentation as the IRS, may require establishing that the taxpayer is the beneficial owner of the income for which a claim for refund or credit is being made and verifying the grounds and facts set forth in taxpayer's claim as required by § 301.6402-2(b)(1). See § 1.1474-5 for additional requirements that may apply in the case of a refund of tax withheld under chapter 4.

(f) and (f)(1) [Reserved] For further guidance, see § 301.6402-3(f) introductory text and (f)(1).

(2) References in paragraph (e) of this section to amounts withheld under chapter 4 of the Code and claims made with respect to amounts withheld under chapter 4 of the Code shall apply to withholdable payments made after June 30, 2014.

(g) *Expiration date.* The applicability of this section expires on February 28, 2017.

[T.D. 9658, 79 FR 12809, Mar. 6, 2014]

**§ 301.6402-4 Payments in excess of amounts shown on return.**

In certain cases, the taxpayer's payments in respect of his tax liability, made before the filing of his return, may exceed the amount of tax shown on the return. For example, such payments may arise in the case of the income tax when the estimated tax or the credit for income tax withheld at the source on wages exceeds the amount of tax shown on the return, or where a corporation obtains an extension of time for filing its return and makes installment payments based on its estimate of its tax liability which exceed the tax liability shown on the return subsequently filed. In any case in which the district director or the director of the regional service center determines that the payments by the taxpayer (made within the period prescribed for payment and before the filing of the return) are in excess of the amount of tax shown on the return, he may make credit or refund of such overpayment without awaiting exam-

ination of the completed return and without awaiting filing of a claim for refund. However, the provisions of §§ 301.6402-2 and 301.6402-3 are applicable to such overpayment, and taxpayers should submit claims for refund (if the income tax return is not itself a claim for refund, as provided in § 301.6402-3) to protect themselves in the event the district director or the director of the regional service center fails to make such determination and credit or refund. The provisions of section 6405 (relating to reports of refunds of more than \$100,000 to the Joint Committee on Internal Revenue Taxation) are not applicable to the overpayments described in this section caused by timely payments of tax which exceed the amount of tax shown on a timely return.

**§ 301.6402-5 Offset of past-due support against overpayment.**

(a) *Introduction*—(1) *Scope.* Section 6402(c) requires the Secretary of the Treasury or his delegate to reduce the amount of any overpayment to be refunded to a person making an overpayment by the amount of past-due support owed by that person of which the Secretary has been notified in accordance with section 464 of the Social Security Act. Past-due support shall be collected by offset under section 6402(c) and this section in the same manner as if it were a liability for tax imposed by the Internal Revenue Code of 1954 (except that a liability for tax shall be given priority with respect to offset arising under section 6402(a)). Collection by offset under section 6402(c) of this section is a collection procedure separate from the collection procedures provided by section 6305 and § 301.6305-1, relating to assessment and collection of certain child and spousal support liabilities. The sole collection procedure provided by section 6402(c) and this section is that of offset against overpayment. Section 6305 and § 301.6305-1, by contrast, provide for other collection procedures in addition to collection by offset against overpayment. Sections 6305 and 6402(c) have differing procedural requirements and may be used separately or in conjunction with each other.